

REMARKS

Formal Matters

Claims 1-21 are pending after entry of the amendments set forth herein. Claims 1-21 were examined and rejected. Claim 1, 8, 15, 19 and 20 have been amended. The amendment to claim 1 incorporates the limitations of claim 2 dependent therefrom. The amendment to claim 15 explicitly incorporates the limitations of claim 14 that were merely implicit to claim 15. The other claims are amended to fully recite the nature of the sample originally expressed in the claim preambles - which provided antecedent basis therefor. No new matter or new issue is raised by the amendments, as they are merely formalistic in nature. Therefore, it is believed that their entry is required despite the Final status of the present Action.

35 U.S.C. §102

Previously, in rejecting claim 15-18 under §102(e) as anticipated by Kim *et al.*, the Examiner failed to address the requirement of claim 15 that the array used in the method be one produced according to the method of claim 14. In the last Amendment, Applicant asserted that since neither claim 14 nor the claims from which it incorporated limitations was rejected in view of Kim *et al.*, that claims 15-18 should be allowable in view of the reference as well. Further, it was asserted that unless any or all of claims 8-14 are to be rejected over Kim, then withdrawal of the rejection against claims 15-18 should be in order.

In response to these arguments, the Examiner treated the reference in claim 15 to claim 14 as preamble language and then chose not to give the language patentable weight. In point of fact, the language was not part of the preamble, but part of the claim body and thus a requirement of the type of array to be used/provided in the method. The language regarding the type of array to be used in the method was intended as an affirmative limitation, and it is believed that a court construing the claim language would have treated it as such in the event of issuance of the claim.

Regardless, Applicants have clarified the limiting nature of the referenced claim language by explicitly setting forth the requirements of claim 14 as they are applicable in claim 15. Now, the claim is very clearly limited to use with certain types of arrays. While the Specification may be directed to a broader class of arrays as referenced by the Examiner in view of paragraph 28, the claim is more limited. In view of limitations expressed in the amended text (to which Kim is believed to be altogether silent), withdrawal of the rejection, based on the previously asserted logic is requested.

35 U.S.C. §103

Claims 1-14 and 19-21 remain rejected under 35 U.S.C. §103(a) as being unpatentable over Schleifer *et al.* in view of Gibson *et al.* Regarding Applicant's previous assertion that the Examiner had not addressed several limitations in the claims with particularity, the Examiner's efforts in that regard that are evident in the present Office Action are much appreciated. Yet, Applicant takes issue with a number of the Examiner's new assertions.

Specifically, Applicant cannot locate the sampling tube the Examiner attributes to Schleifer. The referenced text at Col. 11: lns. 16-33 merely concerns fluid selection and flow lines for reservoir delivery. As to Gibson, Applicant is unsure what the examiner is referring to by merely indicating "Fig. 1."

In any case, additional grounds are argued in support of patentability of claim 1, 19 and those dependent therefrom. With respect to claim 1, it now incorporates the limitations of claim 2. These limitation(s) require that the system includes "valves [that] are positioned to allow dry gas to flow through said chamber in one state and sample to flow through said chamber in a another state." The Examiner asserted that Schleifer discloses positioning allowing for the former action at Col. 3, lns. 8-13 and 59-66 and the latter action at Col. 7, lns. 27-31 Col 8; lns 13-14. That the referenced system is adapted to allow purging gas through chamber 208 in one state is not refuted by Applicant. Such activity is actually what is discussed in Schleifer in each of the Column 3 and Column 7 passages. However, none of the cited text appears to contemplate a valve arrangement in which a *gaseous sample* flows through the chamber - not even the text at Col. 8; lns 13-14. This citation merely refers to filling the reservoir with reagents to be used for printing. As made clear in the claims and throughout Applicant's Specification, the "sample" referred to in the claims is a gaseous material. *See, ¶7, 15, 16, etc.* Likewise, the claims are now more explicit in that regard. Accordingly, by reading the claims in the manner in which they were intended, it is believed that Schleifer clearly fails to anticipate claim 1 as amended to include the limitations of previous claim 2.

Claim 19 and those dependent therefrom are believed allowable in a related manner. Claim 19 requires two distinct system configurations or valves states. The first configuration provides for negative pressure state within the chamber. It is in this state in which gaseous sample is collected. Second, the system is configurable so the dry gas source provides a flow of dry gas within the chamber. In Schleifer, the Examiner was correct to note "a dry gas source connected to a venturi device to provide a negative pressure within the chamber . . . to provide a flow of dry gas through the chamber." However, such a situation is not what is required by claim 19. Claim 19 requires a system configured for 1) a negative pressure state that is distinct from, and 2) a state in which dry gas

flows through the chamber. Thus, the claim is clearly distinguished from the teachings cited by the Examiner. As such, withdrawal of the rejection is requested.

In addition to these points, Applicant wishes to clarify certain other matters though they are not believed necessary to secure allowance. (Silence as to any other points is not to be taken as any sort of admission or other acquiescence.) Specifically, in reference to the Examiner's comments regarding claim 7, it is asserted that there is in fact no identity of function between the claimed invention and Schleifer. The reference allows for no sample flow as noted above. It is unclear to applicant where the Examiner derived the proposition that the venturi pump in the reference has use for drawing both "dry gas and samples through the chamber." Indeed, by reference to the figures in Schleifer, such activity is believed to be a physical impossibility (regardless of what one might try to read into the text of the patent).

With respect to the Examiner's comments regarding claim 10, (as argued above with respect to claim 19) Schleifer, does not disclose using a venturi pump to draw gaseous sample through a flow-cell, but – rather – it merely discloses use of negative pressure to avoid ink dripping/reagent droplet control. Should Applicant be incorrect in this regard, specific reference by the Examiner to some teaching overlooked by Applicant would be very much appreciated.

Finally, Applicant asserts that Schleifer and Gibson are not properly combined at all. Simply adding a sensor within the Schleifer reservoir chamber 208 as required by the rejection makes no sense in Applicant's estimation. The reservoir in Schleifer is not amenable to placement of a sensor therein. It includes a septum and is intended to be (completely) filled with fluid. If it were not, the utility of the apparatus would be compromised – if not destroyed. If the Examiner is to maintain the rejections based on the Schleifer/Gibson combination of references, it is specifically requested that the Examiner address this point and explain how or why the combination would actually be feasible.

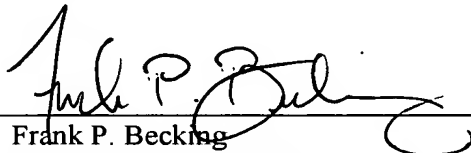
Conclusion

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10010408-1.

Respectfully submitted,
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Date: 8 / 7 / 0 3

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